

COPY

Opinion

August 3, 1956

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CONCORD, N.H.

John O. Morton, Commissioner
Department of Public Works and Highways
State House Annex
Concord, New Hampshire

Dear Mr. Morton:

In a letter of July 31, 1956, you advise that a secretary in the Right-of-Way Division of the Department of Public Works and Highways has indicated her desire to file for nomination for Merrimack County Register of Deeds; and referring to the Hatch Act, so-called, you request the opinion of this office on the legality of her retaining her position in the Department and running for the office named. In your letter you state that the Department of Public Works and Highways receives federal funds that are used, in part to finance the Department's construction program, including the payment of a part of the costs of right-of-way acquisition.

Title 5 USCA s.118k(a) (Sec. 2(a) of the Hatch Act) first refers to officers and employees of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any federal agency, and then provides,

"No such officer or employee shall take any active part in political management or in political campaigns."

In its Pamphlet 20, dated January 1956, the United States Civil Service Commission, which is charged with the administration of the Hatch Act as it affects both Federal and State employees, holds that as a result of the language just quoted:

"Candidacy for nomination or election to a National, State, county, or municipal office is not permissible." Page 16.

In such view it would appear that the facts set forth in your letter would result in a violation of the Hatch Act which, in turn, could result in a loss of a portion of the grant made by the Federal Government to the State for highway purposes as set forth in Title 5 USCA 118k(b).

Very truly yours,

Warren E. Waters
Deputy Attorney General

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